

Christie Burns

Senior Planning Officer
Cumberland Council



By email to: development.control3@cumberland.gov.uk
24/07/2025

Application Number: 4/25/2198/OF1, Erection of visitor centre with café/shop, group room, staff/volunteer, toilet facilities and car park; consolidation, repair and installation of interpretive sculpture to Towsey Hole windmill; refurbishment of existing tern hide; new bird hides/viewing screens, pathways, gateway features, street furniture and demarcation of spaces at existing car park; enhancement of wildlife habitats; associated landscaping and drainage infrastructure; and maintenance of byway with restricted vehicular access (the iron line project)

Location: Land at Hodbarrow Nature Reserve, Millom

Applicant: Cumberland Council

Dear Ms Burns

Thank you for consulting RSPB in respect of the above application. Please accept this letter as my response regarding the above application for a visitor centre and associated facilities at Hodbarrow on behalf of the Royal Society for the Protection of Birds (RSPB).

We wish to make the following **comments** on the application cited above based on the following which we believe will impact continued operation of our reserve at Hodbarrow as a result of the proposed development.

- 1. Potential impacts to Natterjack Toad**
- 2. Wardening Provision as Mitigation**
- 3. New Access Provision**

The RSPB

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We're now the largest nature conservation charity in the country, consistently delivering successful conservation, forging powerful new partnerships with other organisations and inspiring others to stand up and give nature the home it deserves.

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The RSPB is part of BirdLife International, a network of passionate organisations, working together to save nature across the world.

Along with other environmental groups, we have fought for many years to ensure habitats that support rare and vulnerable wildlife are protected from the worst impacts of human development.

We are also the owner and manager of part of the application site, the RSPB's Hodbarrow Nature Reserve, having purchased 105ha of the site of the former Hodbarrow Iron Mine in 1986, 18 years after the mine closed.

Detailed comments

1.0 Potential impacts to Natterjack Toad

The natterjack toad populations of the UK are largely confined to small and isolated populations highly vulnerable to extinction from changes to their specialist habitat and sensitive life histories. The natterjack toad is classed as "Endangered" in England according to IUCN Red List criteria, an internationally recognised method for assessing extinction risk.

Natterjack Toad, *Epidalea calamita* is protected in the UK under the Wildlife and Countryside Act, 1981. They are a Priority Species under the UK Post-2010 Biodiversity Framework and are listed as a European Protected Species under Annex IV of the European Habitats Directive,

The Duddon Estuary is one of the few relative strongholds remaining for the natterjack toad and is of national importance to the persistence of the species in the UK, this is recognised with the species being a Designated Feature of the Duddon Estuary Ramsar site and Notified Feature of the Duddon Estuary SSSI.

We note the absence within the application documents of an updated Landscape and Ecology Management Plan (LEMP), and a standalone Amphibian Mitigation Plan, both of which we consider essential to be able to adequately assess the application, as did Natural England in their response to the previous application, (4/23/2249/0F1).

No adult Natterjack Toads (henceforth Natterjack) have currently been recorded within our reserve, as stated within the various documents produced by Greengage for the Applicant, based both on their survey effort in support of the previous application and our own surveys shared with them in 2024.

Our Ecologist (and RSPB Natterjack lead) did record a single 'probable' Natterjack spawn string from the Red Clay Pond in 2024. Although this was not definitively identified¹ and therefore not shared with the Applicant, but it is our qualified

¹ Figure B.1, Phase II Survey Report Addendum, Greengage, 2025. Amphibian data from RSPB for April 2024

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assumption based on location and considerable experience on the part of our ecologist in surveying the Duddon Estuary population, that this was probably from Natterjack rather than Common Toad as assessed by the Applicant as this location is sub-optimal for Common Toad.

From our own surveys Natterjack are known to be present on land immediately adjacent to the proposed development site.² Natterjack, are highly mobile, travelling large distances of up to 5 km.

We have delivered on-site works funded by Natural England as part of their Species Recovery Scheme.³ These works aim to enhance Hodbarrow Reserve for Natterjack, these works including, scrub removal, pond creation and pond fencing, together with appropriate habitat management are aimed at bringing Natterjack back onto the reserve and thereby reducing the gaps between the neighbouring sites used by the Duddon Estuary meta-population which is a Designated Feature of the Ramsar Site and SSSI.

Therefore, if post-metamorphic juvenile and adult Natterjack are not currently using the site for foraging and refuge, the works delivered are aimed at ensuring that our reserve fulfils this function in the future and therefore our comments apply equally to a present and future population of Natterjack utilising the site which because of the proposed development is expected to see visitor numbers more than doubling.

Our comments relate to the Shadow Appropriate Assessment⁴, the Planning Statement⁵ and the Ecological Impact Assessment & Preliminary Ecological Appraisal Update⁶.

It is the responsibility of the developer to demonstrate that no harm will arise from their proposals, and we believe that the Applicant has an aspiration to achieve this, but we wish to make the following comments in respect of Natterjack and proposed mitigation.

1.1 Shadow Appropriate Assessment, Section 5.4 Natterjack Toads (Ramsar)

Construction Phase, Non Recreational Disturbance - In Combination Effects

The Applicant states –

² Section 5.6, Nature Reserve, para 3, page 70, Ecological Impact Assessment and Preliminary Ecological Appraisal Update, Greengage April 2026

³ Referred to as 'Species Recovery Trust funding' on page 20 of the sHRA, Greengage 2025

⁴ Shadow Appropriate Assessment, Greengage April 2025

⁵ Planning Statement, HG Associates, April 2025

⁶ Ecological Impact Assessment and Preliminary Ecological Appraisal Update, Greengage April 2026

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'There were no nearby developments identified [that] are predicted to have cumulative effects in the form of reduced water quality extending to the qualifying natterjack toads'⁷

We consider that the conclusions of this assessment are incorrect as there are two developments on the other side of the Duddon Estuary (Westmoreland & Furness Council, W&FC) which have the potential to cause non-recreational impacts to Natterjack, and the Duddon Estuary Ramsar/SSSI Natterjack meta-population, these being at Roanhead, where we have objected to impacts on Natterjack -

- B06/2024/0024 - Application for Outline Planning Permission for up to 233 eco lodge units, habitat creation and ecological enhancements, estate management facility, residential student training academy, coastal ecology field study centre, staff accommodation, supporting indoor and outdoor leisure, retail facilities and associated works with access (appearance, landscaping, layout and scale reserved for subsequent approval) (Application includes Environmental Statement) (Re-submission of B06/2023/0307 in a revised form) &;
- B12/2024/0213 - Change of use of land (currently used for agricultural grazing/woodland/redundant spoil heap purposes) to tourism use, comprising 23 holiday lodges (plus one warden's lodge), 10 glamping pods, 24 touring caravan/motorhome pitches and erection of 3 ancillary buildings, which comprise a facilities building, an amenity block and a booking-in office).

1.2 Shadow Appropriate Assessment, Section 6.4 Natterjack Toads (Ramsar)

Operational Phase, Water Quality

The assessment of the mitigation for water quality impacts suggests –

'It is predicted that there should be no impact to the potential natterjack toad ponds with the new fencing installed'⁸

It is not clear to us what type of fencing is proposed, when this would be installed, who would undertake the monitoring described or manage/maintain the signage. In the absence of an updated draft LEMP within the application documents, we would like to suggest that the specification accords with that already installed onsite and is conditioned should the Application be approved.

The monitoring of the fences is described in outline (page 49, un-numbered), we agree with the statement that monitoring and repairs is secured within an updated LEMP and suggest that this is conditioned, however, it is not clear to us who (associated with the development) will undertake this monitoring on behalf of the Applicant on land within our ownership.

⁷ Page 35 (un-numbered), In Combination Effects, Shadow Appropriate Assessment, Greengage 2025

⁸ Page 49 (un-numbered) Shadow Appropriate Assessment, Greengage, 2025

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The Applicant concludes no In Combination Effects, again we refer to our comments on the two Roanhead developments in Planning with W&FC.

1.3 Recreational Pressure and Disturbance

Under this section the Applicant's mitigation measures are the same as those described above (water quality), again it is not clear to us, how or by whom this mitigation will be provisioned on land within our ownership.

1.4 Ecological Impact Assessment and Preliminary Ecological Appraisal Update

Section 10.2 Enhancement Measures for Natterjack

The Applicant states –

*'Once the dense scrub has been cleared, proposals seek to create three additional ponds for natterjacks. Scrapes to be lined with concrete and back filled with slag from the surrounding area. The ponds will have gently sloping sides to ensure safe passage out of the pools for toadlets and hold water down to a maximum water depth of 50 – 70cm that will dry out in late summer in an average year. The use simple pipes sluices could be installed so that the pools can be drained down in late summer.'*⁹

We have serious concerns regarding the use of concrete as a suitable material; concrete generally cracks relatively quickly and can then be tricky to repair. Any exposed concrete also heats up disproportionately to the surrounding environment. As such, exposed concrete can create a desiccation zone for emerging toadlets.

Desiccation during the breeding season might not be an issue if the ponds are backfilled with enough slag. Another problem is a lack of confirmed ability to tweak the depth of such ponds. If some form of water depth control is not installed it is likely that each pond will become a useful habitat for competitors like Common Toad, water control is essential for both maintaining water levels for breeding, and then allowing the ponds to desiccate to prevent too much plant growth and competition with other species.

It is also not clear to us as site owners and managers, where these 3 additional ponds will be created, nor who will be responsible for the management thereof and therefore delivery of the enhancement suggested, nor the location of the scrub to be cleared.

The Applicant also states that –

'A detailed Amphibian Management Plan will be incorporated into a LEMP. This Management Plan will be iterative in the medium to long-term, adapting to changing site conditions and in response to the feedback from monitoring exercise. If required, these ponds could be used for translocation of pillwort and natterjacks.'

⁹ Section 10.2 Natterjack Toads, page 120, Ecological Impact Assessment and Preliminary Ecological Appraisal Update, Greengage April 2026

See our previous comments on the lack of a draft LEMP or an Amphibian Mitigation

In addition to the pools nearby resting/hibernation habitat will be created through the provision of sandy banks, stone walls, piles of stones. These will be fenced off to members of public and dogs'.¹⁰

Again it is not clear to us where the Applicant intends to locate the refugia described above, whilst fencing is appropriate it is important that these are not located near to main access routes which would potentially bring Natterjack into conflict with visitors and their dogs.

1.5 Planning Statement

Within the Planning Statement the Applicant also states that -

'the development to be constructed in accordance with the submitted CMS, CEMP and LEMP (Mitigation); and a corridor for habitat enhancement for Natterjack Toads, works in accordance with the RSPB Species Recovery Fund project'.¹¹

The highlighting is our own, however, it is not clear to us whether the Applicant is suggesting within Section 10.2 Enhancement Measures for Natterjack¹² anything additional to the works that we have already undertaken with NE funding, we suggest that works already undertaken by us on our land, and which have nothing to do with the application cannot be considered mitigation as this section of the Planning Statement suggests.

Based on our comments in relation to Natterjack and the application as submitted, we **do not agree** with the Applicant's position that the development once operational -

*'will have a **Permanent Positive Residual Effect** on natterjack toad populations at a National level (Significant).*

2.0 Wardening Provision as Mitigation

Within Section 6.0 Appropriate Assessment Operational Phase the Applicant suggests Signage as Mitigation with the following statement -

'Research suggests that signage is an effective way of reducing disturbance caused by visitors at unmanaged wildlife sites'.

¹⁰ Section 10.2 Natterjack Toads, page 121, Ecological Impact Assessment and Preliminary Ecological Appraisal Update, Greengage April 2026

¹¹ Section 6.13, page 15, Planning Statement, HG Associates, 2025

¹² Section 10.2 Natterjack Toads, page 121, Ecological Impact Assessment and Preliminary Ecological Appraisal Update, Greengage April 2026

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As the owners and managers of Hodbarrow Nature Reserve, we take issue with this statement, our reserve is not unmanaged, however, it could perhaps be described currently as under-resourced and because of this we consider that more than doubling the number of visitors and hoping to manage their impacts with signage alone and interpretation, in our opinion insufficient. This position it would appear is not ours alone, we note the following from the response to the previous application (4/23/2249/0F1) by Natural England dated 16 November 2023, page 2 paragraph 6 –

'Full time wardening will be essential year-round, and between mid-February and early September this will need to [be] 24 hours a day, 7 days per week to ensure there is no access or disturbance to the Tern Islands or gull breeding sites within the Lagoon. Funding source and commitment for this must be secured before determination of the planning proposal. It is likely that at least 3 wardens will be required to provide adequate wardening of the site. This needs to be fully costed and secured'.

The Applicant's documents as submitted make no mention of NE's comments in respect of wardening provision and do not seek to address them.

We are largely in agreement with NE, in that more than doubling visitor numbers will undoubtedly lead to increases in recreational disturbance and that therefore enhanced wardening provision is required but, we disagree (with NE) that this provision needs to be 24/7 year round which NE seem to suggest.

Having made that assertion as with our response to the previous application, we see adequate wardening provision (a FTE warden and 2 FTE assistants) as essential and as such would recommend that it is conditioned for the lifetime of the development (or 25-years), should the application be approved.

The Applicant's Shadow Appropriate Assessment, Breeding Birds (SPA and Ramsar), states the following in respect of our Seasonal Species Protection Assistant role, referred to by the Applicant as the 'Tern Warden' under Mitigation -

*'RSPB provide a tern warden within the hide during nesting season. The **tern wardens will continue** to monitor the tern populations, engage with the public and monitor disturbance and predation'*

The highlighting is our own, however we wish to disagree with the statement regarding continuation, whilst this seasonal role is currently within our staffing model, we are a charity subject to external economic pressures, and our staffing roles are regularly reviewed, there is therefore no guarantee that this role will be continued for the operational lifespan of the proposed development, as such we therefore disagree, with the Applicant's assessment that our existing Species Protection Assistant role is appropriate or adequate mitigation for the proposed development, which according to the Applicant, will more than double visitors to our reserve.

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3.0 New Access Provision

3.1 Proposed Windmill Boardwalk

Whilst broadly happy with the proposed new and improved access routes across our land, as recently discussed (15 July 2025) during a site meeting with the Applicant we have significant reservations in respect of the provision of a new boardwalk across the Fixed Coastal (grey) Dunes adjacent to the Windmill, whilst we acknowledge the desire on the part of the Applicant to achieve an accessible route to the feature which is to be significantly enhanced, this proposal conflicts with our agreed Management Plan for the this part of the site.

Our discussions with the Applicant in respect of this boardwalk stem from our opinion that it should be omitted, maintaining (visitor) distance from sensitive habitats like the Annex 1, Fixed Coastal Dune with herbaceous vegetation in this location.

It should be noted that we have worked with the Applicant to find alternatives to this route, and that at present they are working with their consultants to see whether other options are available to provide an accessible route which does not cross the Grey Dunes, should an alternative not be found and this element of the overall scheme remain we object to its inclusion.

3.2 Byway Open to All Traffic (BOAT)

The Applicant proposes –

*'In relation to the existing BOAT, the intention is for the surface to be maintained in accordance with relevant accessibility standards as a byway but with restricted vehicular access just for management/maintenance, utilities and emergency services. The restriction is to be imposed through a Traffic Regulation Order and the physical installation of retractable bollards. The TRO will be implemented using Section 1 of the Road Traffic Regulation Act 1984.'*¹³

We understand contrary to this statement that other users will also have access to the BOAT, we are in agreement with the location of bollards illustrated on application drawing 1000, the Site Master Plan (Layer Studio, as revised 2025), but remain concerned that no detail on bollards is given within the application.

We are concerned about the proposals to make a Traffic Regulation Order (TRO) covering the BOAT, not from the perspective of it restricting the passage of mechanically propelled vehicles, but rather from the risk that it may not be deliverable.

It is our understanding that the process involves –

¹³ Section 4.9, page 9, Planning Statement, HG Associates, 2025

- **Informal Consultation:**

The proposed scheme is presented to relevant stakeholders, including local councillors, emergency services, and potentially transport organizations, residents, and community groups. They are given a minimum of 21 days to provide feedback.

- **Statutory Consultation:**

If the informal consultation indicates a need, a more formal consultation process is initiated, with a notice period of at least 21 days.

- **Objection and Consideration:**

All comments and objections received during consultation are carefully considered. This may involve further amendments to the proposal.

- **Decision Making:**

Based on the feedback and assessment, a decision is made on whether to proceed with the TRO, amend it, or abandon it. This process can involve local councillors or even committees.

- **Public Notice and Making the Order:**

If approved, the TRO is formally made and published in the local press, often with a statement of reasons. It is also advertised, and signs are placed in affected areas.

- **Implementation:**

The restrictions outlined in the TRO are then put into effect, and enforcement can begin.

Specifically, our concern relates to point 4, Decision making, should at this point Cumberland Council be minded not to proceed and abandon the proposal, we have serious concerns regarding the development proceeding with unfettered access over the BOAT and the significant damage to locally important plant species including Kidney Vetch *Anthyllis vulneraria*, the larval food plant of the s41 Priority Species, Small Blue Butterfly *Cupido minimus* recently translocated onto our reserve to boost the Cumbrian population, these are in addition to potential impacts to the dispersing Natterjack population moving through the appropriate reserve habitats.

Summary

We have serious concerns regarding the potential impacts of the proposals (based on the information, or lack thereof provided by the Applicant) on our ability to manage our land/reserve in an adaptive way, an remain concerned regarding impacts, both negative and potentially positive on (s41/EPS) Natterjack using the site.

In addition, we have reservations regarding the deliverability of a TRO on the repaired BOAT, and the impacts thereof on habitats and species using our reserve designated as part of the SSSI/Ramsar/SPA/SAC sites on the Duddon.

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Yours sincerely

Jeremy Sutton, Senior Conservation Officer, North West England

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